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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Suzette Banasik, and William Jablonski,

Plaintiffs,

v.

Clark County, Nevada; David Roger (in his official capacity as District Attorney for Clark County); Las Vegas Metropolitan Police Department; Sheriff Douglas Gillespie (individually and in his official capacity as Sheriff of the Las Vegas Metropolitan Police Department); Las Vegas Metropolitan Police Department Officers Contreras (Badge Number 9316), Goris (Badge Number 7520), Hanigan (Badge Number 3518)(in their individual capacities); and Catherine Cortez Masto (in her official capacity as Attorney General of Nevada).

Defendants.

**42 U.S.C. § 1983 COMPLAINT
FOR DECLARATORY RELIEF,
INJUNCTIVE RELIEF, AND
DAMAGES**

JURY TRIAL DEMANDED

Come now the Plaintiffs, Suzette Banasik, and William Jablonski, by and through the undersigned attorneys, and file this Complaint for injunctive relief, declaratory relief, and damages. This is an action under 42 U.S.C. § 1983 to address the unconstitutional policy and

1 practice of the Las Vegas Metropolitan Police Department (“Metro”) and its officers to violate
2 the First Amendment rights of street performers as well as the unconstitutionality and
3 unlawfulness of certain provisions of the Nevada Revised Statute (“NRS”) and the Clark
4 County Code. Based upon the clear constitutional violations and Defendants’ willful and
5 deliberate violations of the law, Plaintiffs seek a permanent injunction, declaratory relief and
6 should be awarded damages, costs, attorneys’ fees, and any other relief to which they are
7 entitled as victims of civil rights violations.
8

9 **NATURE OF THE ACTION**

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11 As alleged with greater particularity below, Plaintiffs allege that Metro’s policy and
12 practice of harassing street performers, along with the challenged statutes and county codes,
13 violate the free speech, due process, and equal protection provisions of the U.S. and Nevada
14 constitutions and amount to unconstitutional restraints on personal speech and expression.
15 Metro police officers routinely harass street performers and apply non-applicable and
16 unconstitutional laws to street performers who are performing on the sidewalks along the Las
17 Vegas Strip. Police officers have ticketed and/or arrested street performers for such violations
18 as operating a business without a license, begging/soliciting alms, obstructing the sidewalk,
19 storing materials on the sidewalk, disorderly conduct, obscene materials, and being a public
20 nuisance. The habitual harassment and application of these inapplicable laws against street
21 performers, including Plaintiffs, by Metro violates Plaintiffs’ free speech, due process, and
22 equal protection rights and constitutes a policy and practice of deliberate and willful, or at best,
23 gross negligent disregard for the law and Plaintiffs’ constitutionally protected rights to exercise
24 their right to free expression on the Strip, a public forum.
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1 **I. JURISDICTION**

2 1. This Court has original subject matter jurisdiction over the federal Constitutional
3 violations alleged in this Complaint pursuant to the provisions of 42 U.S.C. § 1983 and 28
4 U.S.C. §§ 1331 and 1343. Pursuant to 28 U.S.C. §1367(a), this Court has supplemental
5 jurisdiction over Plaintiffs' state law claims. This Court has jurisdiction to issue injunctive and
6 declaratory relief pursuant to 28 U.S.C. § 2201 and 42 U. S.C. § 1983.
7

8 2. Venue is proper in the District of Nevada pursuant to 28 U.S.C. §1391. All parties
9 reside in Nevada, and all actions pertinent to this complaint occurred in Clark County, Nevada.
10

11 **II. PARTIES**

12 3. Plaintiff Suzette Banasik (formerly known as Suzette Spagnolo) is a resident of Clark
13 County, Nevada. Ms. Banasik is a musician and loves playing music for others. She plays the
14 guitar and sings in public places in and around Clark County, including the Strip. On more than
15 one occasion police officers from the Las Vegas Metropolitan Police Department ("Metro")
16 have told her that she cannot play and sing on the sidewalks of the Las Vegas Strip. Metro
17 officers have issued tickets to Ms. Banasik and even arrested her for singing and playing guitar
18 on the sidewalk adjacent to the Las Vegas Strip.
19

20 4. Plaintiff William Jablonski is a resident of Clark County, Nevada. He dresses as
21 Elvis Presley, plays the guitar, and sings in public places in and around Clark County. He has
22 always been told he looks like Elvis, a hero of his, and he enjoys making people happy by
23 impersonating Elvis for them. He frequently performs on the sidewalks of the Las Vegas Strip
24 and poses for pictures with tourists. On more than one occasion police officers from the Las
25 Vegas Metropolitan Police Department ("Metro") have told Mr. Jablonski that he cannot
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1 perform on the sidewalks of the Las Vegas Strip. Metro officers have issued tickets to him for
2 performing on the sidewalk adjacent to the Las Vegas Strip.

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4 5. Defendant Clark County Commission is a political entity authorized as a service
5 delivery organization for the governance of Clark County, Nevada, and makes policy for
6 unincorporated areas of the county. The Clark County Commissioners are sued in their official
7 capacity, and Clark County and the Commissioners are collectively referred to herein as the
8 “Clark County.”

9
10 6. Defendant David Roger is the District Attorney for Clark County, Nevada. He is
11 vested with the authority to prosecute violations of both Nevada statutory law and Clark County
12 Code. Defendant Roger is sued in his official capacity.

13
14 7. Defendant Las Vegas Metropolitan Police Department (“Metro”) is a governmental
15 agency of Clark County and the City of Las Vegas with jurisdiction over the unincorporated
16 parts of Clark County and is tasked with enforcing the Clark County Code, as well as Nevada
17 statutory law. Metro engages in a policy and practice of deliberate indifference toward the
18 constitutional rights of persons engaging in free speech activities on the Strip. Furthermore,
19 despite numerous law suits regarding First Amendment rights of persons using the sidewalk
20 along the Strip, Metro has failed to train its officers to adequately protect those rights.

21
22 8. Defendant Douglas Gillespie is Sheriff of the Las Vegas Metropolitan Police
23 Department (“Metro”). Defendant Gillespie and all Metro police officers are vested with
24 authority to enforce both Nevada statutory law and Clark County Codes. Defendant Gillespie
25 has final policymaking authority for internal policies and is vested supervisory authority over all
26 Metro officers. Defendant Gillespie is aware of, and has either implicitly or explicitly condoned
27 or created a policy and practice of deliberate indifference toward the constitutional rights of
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1 persons engaging in free speech activities on the Strip. Furthermore, Sheriff Gillespie has failed
2 to train his officers to adequately protect those rights. Sheriff Gillespie is sued in his individual
3 and official capacity.
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5 9. Defendant Catherine Cortez Masto is the Attorney General of the State of Nevada. In
6 her official capacity, Ms. Masto is vested with the authority to enforce Nevada statutory law.
7 Defendant Masto is sued in her official capacity.

8 10. Metro Officers Contreras, Goris, and Hanigan are vested with authority to
9 enforce both Nevada statutory law and Clark County Codes. The officers are each sued in their
10 individual capacity.
11

12 **III. STANDING**

13 11. All Plaintiffs are directly affected by Metro's application of the challenged Clark
14 County Codes and the Nevada statute because these laws have either been applied against one
15 of the Plaintiffs, or the Plaintiffs have knowledge of their application against other street
16 performers and such knowledge has had a chilling effect on Plaintiffs' First Amendment
17 activities. The challenged laws are: Clark County Code 6.56.030 (operating a business without
18 a license); Clark County Code 12.32.020 (vagrancy); Clark County Code 12.32.020(d)
19 (begging/soliciting alms); Clark County Code 16.11.070 (storing materials on a public
20 sidewalk); Clark County Code 16.11.020 (obstructing a public sidewalk); Clark County Code
21 12.33.010 (disorderly conduct); Clark County Code 11.04.020 (obscene materials), and Nevada
22 Revised Statute ("NRS") 202.450(3) (public nuisance). The enforcement, or credible fear of
23 enforcement, of these laws against Plaintiffs Ms. Banasik and Mr. Jablonski, as well as the
24 deterring effect of potential future enforcement against them, have caused a violation of
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1 Plaintiffs' rights under the U.S. and Nevada Constitutions. Thus, the requirements for Article
2 III standing have been met.

3
4 **IV. GENERAL ALLEGATIONS**

5 12. The portion of Las Vegas Boulevard South between Russell Road and Sahara
6 Avenue is commonly referred to as "the Strip" or "the Las Vegas Strip." This area is just over
7 three and a half miles long and is located within the unincorporated parts of Clark County.
8 Many of the largest hotel and casino properties in the world are located on the Strip and
9 millions of visitors from all over the world come to stay and play on the Strip.

10
11 13. The Clark County Code applies to all areas of unincorporated Clark County,
12 Nevada.

13
14 14. The Las Vegas Metropolitan Police Department is a governmental agency with
15 jurisdiction over the unincorporated parts of Clark County and is tasked with enforcing the
16 Clark County Code, as well as Nevada statutory law.

17 15. The term "street performer" is used in many areas of the English-speaking world
18 to describe individuals who display their artistic talents in public places. Street performers are
19 also known as a "street artists," "street musicians" or "buskers." Street performers may play
20 one or more musical instruments, sing and dance, or do acrobatics, balloon modeling, card
21 tricks, clowning, comedy, contortions, fortune-telling, juggling, magic, miming, puppeteering,
22 storytelling or recite poetry or prose as a bard. Street performers perform for a variety of
23 reasons, such as for money, for fun, for public attention, to socialize or meet people, for the love
24 of their art, or to practice their skills or try out new material in front of an audience. Street
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1 performers are a common feature of vibrant city thoroughfares like The Strip, and many famous
2 musicians began their careers as street performers.

3
4 **a. SUZETTE BANASIK**

5 16. Plaintiff Suzette Banasik is a street musician who plays her guitar in public
6 places in and around Clark County, Nevada including on the Las Vegas Strip. As a general
7 practice, she stands next to her open guitar case while she plays. Sometimes passersby throw
8 money into the case. Ms. Banasik does not ask for, or solicit tips, but does accept tips that are
9 placed in her guitar case. Within the past year, she has had several encounters with Metro while
10 performing on the sidewalks of the Las Vegas Strip, and Metro officers have repeatedly told her
11 to get off the Strip.
12

13 17. On July 28, 2008, Ms. Banasik was standing on the sidewalk playing the guitar
14 in front of the Wynn Hotel and Casino. Ms. Banasik was standing in an area where there was
15 plenty of room for pedestrians to pass by, and she was not standing near any of the hotel
16 entrances and there were no bus stops or public toilets nearby. A Metro officer approached her
17 and told her that she could not play the guitar on the sidewalk because it was considered
18 soliciting alms. Once she had packed up her belongings, he told her to leave the area. Ms.
19 Banasik complied with the officer's request and no citation was issued.
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22 18. On December 1, 2008 at approximately 2:15 p.m., Ms. Banasik was standing
23 against the fence on the sidewalk in front of the Mirage Hotel on Las Vegas Boulevard playing
24 her guitar. Ms. Banasik was not standing near any of the hotel entrances and there were no bus
25 stops or public toilets nearby. This area of the sidewalk between the Mirage Hotel and the Strip
26 is nearly twenty feet wide. It is bordered by a chain-link fence on the Mirage Property. Ms.
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1 Banasik was leaning against the fence and had placed her backpack and opened guitar case on
2 the sidewalk against the fence.

3
4 19. At approximately 2:40 p.m., a Las Vegas Metropolitan Police Department bike
5 patrol officer approached Ms. Banasik and told her that she could not play music on the
6 sidewalk and that she would have to leave the area. When she refused to leave, the officer
7 issued a citation.

8
9 20. Ms. Banasik was cited for violating Nevada Revised Statute 207.030 (vagrancy);
10 Clark County Code 12.32.020(d) (begging/soliciting alms); Nevada Revised Statute 202.450
11 (public nuisance); and Clark County Code 11.04.020 (obscene materials). The citation number
12 is 1-04274188A and the issuing officer's name appears to be Hanigan, with a badge number of
13 3510.

14
15 21. As of this date, no charges have been filed against Ms. Banasik stemming from
16 this citation.

17
18 22. On March 12, 2009, Ms. Banasik and another street performer were playing
19 music together on the pedestrian walkway bridge between Bally's Hotel & Casino and Bill's
20 Gamblin' Hall & Saloon. They were approached by two Metro officers who told them that their
21 activity was not permitted and that they would be arrested if they did not leave the area. The
22 officers began to write them a citation for operating a business without a license and obstructing
23 the sidewalk. Ms. Banasik decided to take pictures of the area to prove that they were not
24 obstructing the sidewalk. At that time, the officers placed both Ms. Banasik and the other street
25 performer under arrest.

26
27 23. Ms. Banasik was arrested for obstructing the sidewalk in violation of Clark
28 County Code 16.11.020 and operating a business without a license in violation of Clark County

1 Code 06.56.030. The event number associated with Ms. Banasik's arrest is 090312-3911. The
2 arresting officers' last names appear to be Contreras and Goris and the badge numbers are 9316
3 and 7520 respectively.
4

5 24. In late April 2009, Ms. Banasik received a letter from the District Attorney's
6 office stating that no charges would be filed stemming from her arrest on March 12, 2009. The
7 letter is marked D.A. File No. 09M11036X.

8 **b. WILLIAM JABLONSKI**

9
10 25. William Jablonski is a street performer who impersonates Elvis. He carries a
11 guitar and also plays and sings Elvis songs. Tourists often ask Mr. Jablonski if they can have
12 their pictures taken with him, and sometimes they place unsolicited tips in his guitar. In
13 addition to performing in public areas, Mr. Jablonski has performed in casinos and other venues
14 in Nevada, Georgia, Texas, and Tennessee. He performed at an Elvis tribute at the MGM Hotel
15 & Casino that was televised worldwide in November of 2006.
16

17 26. In or around August 2007, Mr. Jablonski received a citation for obstructing the
18 sidewalk while he was performing as Elvis on the sidewalk along the Strip. A copy of the
19 citation is not available from the Metro Records Office. Because of this incident, Mr. Jablonski
20 stopped dressing up as Elvis and going down to the Strip because he was worried about
21 receiving another citation. Even though Mr. Jablonski and his wife had considered moving
22 back to Georgia, where he knew that he could dress as Elvis and pose for pictures without any
23 trouble from police officers, they stayed in Las Vegas because they knew the city had a year and
24 a day to prosecute the charges and Mr. Jablonski did not want to leave the city with a citation
25 outstanding.
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1 27. In April of 2009 Mr. Jablonski read an article in the Las Vegas Review-Journal
2 discussing the recent decision in *ACLU of Nevada et. al, v. City of Las Vegas, et. al*, 2:97-cv-
3 01419 (D. Nev. 2009) which discussed First Amendment rights at the Fremont Street
4 Experience. This article renewed Mr. Jablonski's conviction that it was legal to perform as
5 Elvis and pose for pictures on the Strip, so he proceeded to go to the Strip dressed as Elvis and
6 pose for pictures.
7

8 28. On April 23, 2009 at approximately 1:30 p.m., Mr. Jablonski was impersonating
9 Elvis while standing on the sidewalk in front of the Paris Hotel and Casino when he was
10 approached by Metro officer, Michael Andrews. Officer Andrews told Mr. Jablonski that he
11 could not be on the sidewalk posing for pictures and accepting tips. Mr. Jablonski told the
12 officer that he believed it was his legal right to be there. Officer Andrews threatened Mr.
13 Jablonski with jail, but when Mr. Jablonski asked the officer what ordinance or state law he was
14 violating so that he could call his attorney and resolve the matter, Officer Andrews told him that
15 he would not write a citation.
16
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18 29. On April 30, 2009, at approximately 3:00 p.m., Mr. Jablonski was standing
19 approximately five feet from the curve in front of the Paris Hotel and Casino when security
20 guards came out and asked him why he was on their property. Soon after, Officer Andrews
21 along with five other officers approached Mr. Jablonski and told him that he could not be there.
22 In an attempt to express his rights, Mr. Jablonski showed the officers a copy of the final order in
23 the recent case regarding the Fremont Street Experience, *ACLU of Nevada et. al, v. City of Las*
24 *Vegas, et. al*, 2:97-cv-01419 (D. Nev. 2009), a case that declared that a blanket ban on
25 solicitation and the ordinance prohibiting tabling and vending without first obtaining a license
26 as facially unconstitutional and in violation of the First Amendment in a public forum. After
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1 some deliberation over whether the case only applied to the Freemont Street Experience, the
2 officers informed Mr. Jablonski that he could be there as long as he stayed three feet from the
3 curb. However, the officers also told Mr. Jablonski that because he accepts tips that he was in
4 violation of Clark County Code 656.030 for operating a business without a license.
5

6 30. The following morning, Mr. Jablonski called the licensing department of Clark
7 County to see if he could get a license. The woman on the phone told him that they do not offer
8 licenses for what he does and that what he was doing was illegal.
9

10 31. On Saturday, June 27, 2009 at approximately 8:00 p.m., Mr. Jablonski was
11 outside of the Miracle Mile right before the Paris Hotel driveway. Mr. Jablonski has noticed
12 that hand-billers and street preachers meet there and believed he would not be bothered.
13 However, he was approached by five police officers from the Las Vegas Metropolitan Police
14 Department who announced that they saw a tourist give Mr. Jablonski a dollar and told Mr.
15 Jablonski that he could not be there. When Mr. Jablonski asked the officers to give him their
16 name and badge numbers, one officer replied that he would give him his name and badge
17 number on a ticket. Mr. Jablonski told the officer that was fine; he would take the ticket to his
18 lawyer.
19

20 32. When the group of officers and Mr. Jablonski were approached by a sergeant, the
21 sergeant was willing to listen to Mr. Jablonski as he explained his rights. After Mr. Jablonski
22 told the officers that he believed it was in his right to be there, the sergeant told Mr. Jablonski
23 that they would take a vote and see whether he should receive a ticket. Two of the officers said
24 that Mr. Jablonski should not be cited, and three of the officers said that he should be cited. The
25 sergeant said he outranked them, so his vote was worth more and they were not going to write
26 him a ticket. After this, the first officer shook his hand, and they allowed him to stay out there.
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1 However, neither the sergeant nor the officers identified themselves to Mr. Jablonski by name
2 or badge number.

3 **c. ILLEGAL HARASMENT OF STREET PERFORMERS**

4
5 33. The repeated use of clearly inapplicable laws to harass and intimidate street
6 performers on the Strip is part of the policy and practice of Metro to prevent street performers
7 from performing on the Strip.

8
9 34. Upon information and belief, Metro officers, under the direction of, or with the
10 knowledge of, Sheriff Gillespie intentionally apply inapplicable laws to street performers in
11 order to keep them off the sidewalks of the Strip upon the request of, or in order to appease, the
12 various security officials of the Strip hotel and casino properties.

13
14 35. Upon information and belief, Metro targets street performers while allowing
15 others, such as hand-billers and street preachers to utilize the same areas it excludes street
16 performers from.

17
18 36. Upon information and belief, Metro officers have issued citations to other street
19 performers for violating Clark County Code 06.56.030 (doing business without a license); Clark
20 County Code 12.32.020 (vagrancy); 12.32.020(d) (begging/soliciting alms); Clark County Code
21 16.11.070 (storing materials on a public sidewalk); and Clark County Code 12.33.010
22 (disorderly conduct).

23
24 37. Ms. Banasik is aware of other street performers who have been charged with
25 Clark County Code 12.33.010 (disorderly conduct) and Clark County Code 16.11.070 (storing
26 materials on a public sidewalk) and is fearful that these laws could be applied against her as
27 well.

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d. THE IMPERMISSIBLE REGULATORY SCHEME

38. Metro's enforcement of Clark County Code 06.56.030 (doing business with a license) along with the other relevant portions of Clark County Code Title 6 (Business Licenses); Clark County Code 12.32.020 (Vagrancy); 12.32.020(d) (begging/soliciting alms); Clark County Code 16.11.070 (storing materials on a public sidewalk); Clark County Code 16.11.020 (obstructing a sidewalk); Clark County Code 12.33.010 (disorderly conduct); Clark County Code 11.04.020 (public nuisance); and Nevada Revised Statute 202.450(3) (public nuisance) constitutes an impermissible regulatory scheme that infringes on Plaintiffs' exercise of free speech. These laws are not only unconstitutional as applied to the Plaintiffs herein, but often are completely inapplicable to the activities that the Plaintiffs are participating in, thus showing the City's intention is to chill the Plaintiffs' speech activities by threatening them with these laws. Citations are often written, Plaintiffs have been arrested and held in jail, but later the Plaintiffs' receive letters stating that charges have been dropped.

39. Writing citations for Clark County Code 06.56.030 (doing business without a license) is not only inapplicable to the activities of the street performers, it also infringes on their right of free expression because Clark County offers no license for such activity, and even if it were to create such a license, the licensing scheme under 6.04; 6.08; 6.10; 6.12; and 6.56 are unconstitutional as applied to them because the licensing scheme is a prior restraint on speech and given nearly unfettered discretion to Clark County Business License Department to allow or disallow expression.

40. Clark County Code 12.32.020 (vagrancy) is unconstitutional as applied to street performers because artistic expression in a public forum is not an act of vagrancy.

1 41. Clark County Code 12.32.020(d) (begging/soliciting alms) is facially
2 unconstitutional because it makes it illegal to approach anyone in a public place for the purpose
3 of begging or soliciting alms. Solicitation is an activity that is protected by the First
4 Amendment. Further, it is inapplicable as applied to the Plaintiffs who do not approach anyone
5 for money. As noted above, the Plaintiffs simply play guitar and sing, or dress as Elvis for
6 pictures and only accept tips when they are offered by passersby.
7

8 42. Clark County Code 16.11.020 (obstructing a public sidewalk) is not applicable
9 unless the sidewalks are actually obstructed. Plaintiffs have been harassed and ticketed or
10 arrested by officers for obstructing the sidewalk when they were standing on the edge of a
11 twenty foot wide walkway, leaving plenty of room for pedestrians to pass by. This code is
12 unconstitutional as applied to Plaintiffs.
13

14 43. Clark County Code 16.11.070 (storing materials on a public sidewalk) has been
15 used against Plaintiffs for putting their guitar cases and backpacks on the ground while the
16 Plaintiffs play and sing on the Strip, even though the ordinance explicitly states that it does not
17 apply to items that are actually carried by the person. As applied, anyone who stopped to rest
18 for a moment and placed a bag down on the sidewalk could be written a ticket. This chapter is
19 facially unconstitutional because it conflicts with Clark County Code 16.11.020 as it creates a
20 per se obstruction violation and can be used to ban First Amendment speech activities.
21

22 44. Clark County Code 12.33.010 (disorderly conduct) has been applied to street
23 performers who have sung songs with erotic or racy lyrics. This part of the code is facially
24 unconstitutional because it is vague and overbroad. The application of this law is subject to the
25 viewpoint of the Metro officer applying it. Street performers' songs are protected speech.
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1 45. Clark County Code 11.04.020 (public nuisance) is inapplicable to street
2 performers. The use of this code against street performers serves to highlight the fact that
3 Metro and the County are using inapplicable laws to effect a complete ban on street
4 performances along the sidewalks of the Las Vegas Strip.
5

6 46. The Nevada Public Nuisance Statute prohibits acts unlawfully done that “annoy,
7 injure, or endanger the safety, health, comfort, or repose of any considerable number of
8 persons,” “offends public decency,” or “tends to obstruct” a public street. NRS 202.450(3)(a),
9 (b), (c). Artistic expression, such as impersonating Elvis, playing guitar, allowing tourists to
10 take your picture, and singing in a public location, does not endanger anyone, nor does it offend
11 public decency. It is obviously being applied to the Plaintiffs in an attempt to quash their free
12 speech activity.
13

14 47. The application, or potential application, of these irrelevant and unconstitutional
15 laws against Plaintiffs, and against street performers in general, also amounts to a violation of
16 their substantive and procedural due process rights.
17

18 48. Furthermore, the application of these laws violates Plaintiffs’ right to equal
19 protection under the law for two reasons. First, other speakers, such as hand-billers and
20 protesters, are allowed to exercise their free speech rights on the Strip without fear of
21 harassment, citation or arrest. Secondly, it is clear that Metro takes issue with the fact that
22 Plaintiffs receive tips for their performances and is thus differentiating and applying different
23 standards to protected speech based on whether that speech is for-profit or non-profit which is
24 unconstitutional.
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V. FIRST CAUSE OF ACTION
Violation of the First Amendment to the
United States Constitution under 42 U.S.C. § 1983
(Free Speech)

49. Plaintiffs reallege and incorporate by reference each and every allegation contained in the preceding paragraphs as set forth fully herein.

50. Plaintiffs allege that the enforcement of Clark County Code 6.56.030 (doing business without a license) and the applicable business license requirements of Title 6 of the Clark County Code are unconstitutional as applied to them in violation of their First Amendment rights to freedom of speech and expression. Plaintiffs make this claim against Clark County, David Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

51. Plaintiffs allege that the enforcement of Clark County Code 12.32.020 (vagrancy) is unconstitutional as applied to them in violation of their First Amendment rights to freedom of speech and expression. Plaintiffs make this claim against Clark County, David Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge # 9316).

52. Plaintiffs allege that the enforcement of Clark County Code 12.32.020(d) (begging/soliciting alms) is facially unconstitutional in violation of the First Amendment to the U.S. Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and Sheriff Gillespie.

53. Plaintiffs allege that the enforcement of Clark County Code 16.11.020 (obstructing a public sidewalk) is unconstitutional as applied to them in violation of their First Amendment rights to freedom of speech and expression. Plaintiffs make this claim against

1 Clark County, David Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and
2 Contreras (Badge # 9316).

3 54. Plaintiffs allege that the enforcement of Clark County Code 16.11.070 (storing
4 materials on a public sidewalk) is unconstitutional both facially and as applied to Plaintiffs in
5 violation of the First Amendment. Plaintiffs make this claim against Clark County, David
6 Roger, Metro, and Sheriff Gillespie.

7 55. Plaintiffs allege that the enforcement of Clark County Code 12.33.010
8 (disorderly conduct) is facially unconstitutional in violation of the First Amendment to the U.S.
9 Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and Sheriff
10 Gillespie.

11 56. Plaintiffs allege that the enforcement of Clark County Code 11.04.020 (obscene
12 materials) is unconstitutional as applied to them in violation of their First Amendment rights to
13 freedom of speech and expression. Plaintiffs make this claim against Clark County, David
14 Roger, Metro, Sheriff Gillespie, and Officers Hanigan (Badge # 3518).

15 57. Plaintiffs allege that Nevada Revised Statute 202.450(3) (public nuisance) is
16 unconstitutional both facially and as applied to them in violation of their First Amendment
17 rights to freedom of speech and expression. Plaintiffs make this claim against Catherine Cortez-
18 Masto, David Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

19 58. Metro's policy and practice of harassing street performers, including Plaintiffs,
20 violates Plaintiffs' First Amendment rights.

21 59. Each of the Plaintiffs has been injured, or reasonably fears imminent injury, by
22 these constitutional violations, and the Plaintiffs are entitled to relief.

VI. SECOND CAUSE OF ACTION
Violation of Nevada Const., Art 1, § 9.
(Free Speech)

60. Plaintiffs allege that the enforcement of Clark County Code 6.56.030 (doing business without a license) and the applicable business license requirements of Clark County Code Title 6 are unconstitutional as applied to them in violation of their rights to freedom of speech and expression. Plaintiffs make this claim against Clark County, David Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

61. Plaintiffs allege that the enforcement of Clark County Code 12.32.020 (vagrancy) is unconstitutional as applied to them in violation of their rights to freedom of speech and expression. Plaintiffs make this claim against Clark County, David Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge # 9316).

62. Plaintiffs allege that the enforcement of Clark County Code 12.32.020(d) (begging/soliciting alms) is facially unconstitutional in violation of Article 1, Section 9 of the Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and Sheriff Gillespie.

63. Plaintiffs allege that the enforcement of Clark County Code 16.11.020 (obstructing a public sidewalk) is unconstitutional as applied to them in violation of their rights to freedom of speech and expression. Plaintiffs make this claim against Clark County, David Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge # 9316).

64. Plaintiffs allege that the enforcement of Clark County Code 16.11.070 (storing materials on a public sidewalk) is unconstitutional both facially and as applied to Plaintiffs in

1 violation of Article 1, Section 9 of the Nevada Constitution. Plaintiffs make this claim against
2 Clark County, David Roger, Metro, and Sheriff Gillespie.

3 65. Plaintiffs allege that the enforcement of Clark County Code 12.33.010
4 (disorderly conduct) is facially unconstitutional in violation of Article 1, Section 9 of the
5 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and
6 Sheriff Gillespie.

7 66. Plaintiffs allege that the enforcement of Clark County Code 11.04.020 (obscene
8 materials) is unconstitutional as applied to them in violation of their rights to freedom of speech
9 and expression. Plaintiffs make this claim against Clark County, David Roger, Metro, Sheriff
10 Gillespie, and Officer Hanigan (Badge # 3518).

11 67. Plaintiffs allege that Nevada Revised Statute 202.450(3) (public nuisance) is
12 unconstitutional both facially and as applied to them in violation of Article 1, Section 9 of the
13 Nevada Constitution. Plaintiffs make this claim against Catherine Cortez-Masto, David Roger,
14 Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

15 68. Metro's policy and practice of harassing street performers, including Plaintiffs,
16 violates Plaintiffs' free speech rights as guaranteed by the Nevada Constitution.

17 69. Each of the Plaintiffs has been injured, or reasonably fears imminent injury, by
18 each of these constitutional violations, and the Plaintiffs are entitled to relief.

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23 **VII. THIRD CAUSE OF ACTION**
24 **Violation of the Fourteenth Amendment to the**
25 **United States Constitution under 42 U.S.C. § 1983**
26 **(Substantive Due Process)**

27 70. Plaintiffs incorporate by reference each and every allegation contained in the
28 preceding paragraphs as set forth fully herein.

1 71. Plaintiffs allege that the enforcement of Clark County Code 6.56.030 (doing
2 business without a license) and the applicable business license requirements of Clark County
3 Code Title 6 are unconstitutional as applied to them in violation of their Fourteenth Amendment
4 rights to due process of law. Plaintiffs make this claim against Clark County, David Roger,
5 Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).
6

7 72. Plaintiffs allege that the enforcement of Clark County Code 12.32.020
8 (vagrancy) is unconstitutional as applied to them in violation of their Fourteenth Amendment
9 rights to due process of law. Plaintiffs make this claim against Clark County, David Roger,
10 Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge # 9316).
11

12 73. Plaintiffs allege that the enforcement of Clark County Code 12.32.020(d)
13 (begging/soliciting alms) is facially unconstitutional in violation of the Fourteenth Amendment
14 to the U.S. Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
15 and Sheriff Gillespie.
16

17 74. Plaintiffs allege that the enforcement of Clark County Code 16.11.020
18 (obstructing a public sidewalk) is unconstitutional as applied to them in violation of their
19 Fourteenth Amendment rights to due process of law. Plaintiffs make this claim against Clark
20 County, David Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and
21 Contreras (Badge # 9316).
22

23 75. Plaintiffs allege that the enforcement of Clark County Code 16.11.070 (storing
24 materials on a public sidewalk) is unconstitutional both facially and as applied to plaintiffs in
25 violation of the Fourteenth Amendment. Plaintiffs make this claim against Clark County, and
26 David Roger.
27
28

1 76. Plaintiffs allege that the enforcement of Clark County Code 12.33.010
2 (disorderly conduct) is facially unconstitutional in violation of the Fourteenth Amendment to
3 the U.S. Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and
4 Sheriff Gillespie.
5

6 77. Plaintiffs allege that the enforcement of Clark County Code 11.04.020 (obscene
7 materials) is unconstitutional as applied to them in violation of their Fourteenth Amendment
8 rights to due process of law. Plaintiffs make this claim against Clark County, David Roger,
9 Metro, Sheriff Gillespie, and Officers Hanigan (Badge # 3518).
10

11 78. Plaintiffs allege that Nevada Revised Statute 202.450(3) (public nuisance) is
12 unconstitutional both facially and as applied to them in violation of their Fourteenth
13 Amendment rights to due process of law. Plaintiffs make this claim against Catherine Cortez-
14 Masto, David Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).
15

16 79. Each of the Plaintiffs has been injured, or reasonably fears imminent injury, by
17 these constitutional violations, and the Plaintiffs are entitled to relief.

18 **VIII. FOURTH CAUSE OF ACTION**
19 **Violation of Nevada Const., Art. 1, § 8**
20 **(Substantive Due Process)**

21 80. Plaintiffs incorporate by reference each and every allegation contained in the
22 preceding paragraphs as set forth fully herein.

23 81. Plaintiffs allege that the enforcement of Clark County Code 6.56.030 (doing
24 business without a license) and the applicable business license requirements of Clark County
25 Code Title 6 are unconstitutional as applied to them in violation of their rights to due process of
26 law under article 1, section 8 of the Nevada Constitution. Plaintiffs make this claim against
27 Clark County, David Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).
28

1 82. Plaintiffs allege that the enforcement of Clark County Code 12.32.020
2 (vagrancy) is unconstitutional as applied to them in violation of Article 1, Section 8 of the
3 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
4 Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge # 9316).
5

6 83. Plaintiffs allege that the enforcement of Clark County Code 12.32.020(d)
7 (begging/soliciting alms) is facially unconstitutional in violation of Article 1, Section 8 of the
8 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and
9 Sheriff Gillespie.
10

11 84. Plaintiffs allege that the enforcement of Clark County Code 16.11.020
12 (obstructing a public sidewalk) is unconstitutional as applied to them in violation of Article 1,
13 Section 8 of the Nevada Constitution. Plaintiffs make this claim against Clark County, David
14 Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge #
15 9316)..
16

17 85. Plaintiffs allege that the enforcement of Clark County Code 16.11.070 (storing
18 materials on a public sidewalk) is unconstitutional both facially and as applied to Plaintiffs in
19 violation of Article 1, Section 8 of the Nevada Constitution. Plaintiffs make this claim against
20 Clark County, David Roger, Metro, and Sheriff Gillespie.
21

22 86. Plaintiffs allege that the enforcement of Clark County Code 12.33.010
23 (disorderly conduct) is facially unconstitutional in violation Article 1, Section 8 of the Nevada
24 Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and Sheriff
25 Gillespie.
26

27 87. Plaintiffs allege that the enforcement of Clark County Code 11.04.020 (obscene
28 materials) is unconstitutional as applied to them in violation of Article 1, Section 8 of the

1 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
2 Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

3 88. Plaintiffs allege that NRS 202.450(3) (public nuisance) is unconstitutional both
4 facially and as applied to them in violation of Article 1, Section 8 of the Nevada Constitution.
5 Plaintiffs make this claim against Catherine Cortez-Masto, David Roger, Metro, Sheriff
6 Gillespie, and Officer Hanigan (Badge # 3518).

7 89. Each of the Plaintiffs has been injured, or reasonably fears imminent injury, by
8 these constitutional violations, and the Plaintiffs are entitled to relief.
9

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11 **IX. FIFTH CAUSE OF ACTION**
12 **Violation of the Fourteenth Amendment to the**
13 **United States Constitution under 42 U.S.C. § 1983**
14 **(Procedural Due Process)**

15 90. Plaintiffs incorporate by reference each and every allegation contained in the
16 preceding paragraphs as set forth fully herein.

17 91. Plaintiffs allege that the enforcement of Clark County Code 6.56.030 (doing
18 business without a license) and the applicable business license requirements of Clark County
19 Code Title 6 are unconstitutional as applied to them in violation of their Fourteenth Amendment
20 rights to due process of law. Plaintiffs make this claim against Clark County, David Roger,
21 Metro, Sheriff Gillespie, and Officers Hanigan (Badge # 3518).

22 92. Plaintiffs allege that the enforcement of Clark County Code 12.32.020
23 (vagrancy) is unconstitutional as applied to them in violation of their Fourteenth Amendment
24 rights to due process of law. Plaintiffs make this claim against Clark County, David Roger,
25 Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge # 9316).
26
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28

1 93. Plaintiffs allege that the enforcement of Clark County Code 12.32.020(d)
2 (begging/soliciting alms) is facially unconstitutional in violation of the Fourteenth Amendment
3 to the U.S. Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
4 and Sheriff Gillespie.
5

6 94. Plaintiffs allege that the enforcement of Clark County Code 16.11.020
7 (obstructing a public sidewalk) is unconstitutional as applied to them in violation of their
8 Fourteenth Amendment rights to due process of law. Plaintiffs make this claim against Clark
9 County, David Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and
10 Contreras (Badge # 9316).
11

12 95. Plaintiffs allege that the enforcement of Clark County Code 16.11.070 (storing
13 materials on a public sidewalk) is unconstitutional both facially and as applied to Plaintiffs in
14 violation of the Fourteenth Amendment. Plaintiffs make this claim against Clark County, David
15 Roger, Metro, and Sheriff Gillespie.
16

17 96. Plaintiffs allege that the enforcement of Clark County Code 12.33.010
18 (disorderly conduct) is facially unconstitutional in violation of the Fourteenth Amendment to
19 the U.S. Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and
20 Sheriff Gillespie.
21

22 97. Plaintiffs allege that the enforcement of Clark County Code 11.04.020 (obscene
23 materials) is unconstitutional as applied to them in violation of their Fourteenth Amendment
24 rights to due process of law. Plaintiffs make this claim against Clark County, David Roger,
25 Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).
26

27 98. Plaintiffs allege that NRS 202.450(3) (public nuisance) is unconstitutional both
28 facially and as applied to them in violation of their Fourteenth Amendment rights to due process

1 of law. Plaintiffs make this claim against Catherine Cortez-Masto, David Roger, Metro, Sheriff
2 Gillespie, and Officer Hanigan (Badge # 3518).

3 99. Each of the Plaintiffs has been injured, or reasonably fears imminent injury, by
4 these constitutional violations, and the Plaintiffs are entitled to relief.
5

6
7 **X. SIXTH CAUSE OF ACTION**
8 **Violation of Nevada Const., Art. 1, § 8**
9 **(Procedural Due Process)**

10 100. Plaintiffs incorporate by reference each and every allegation contained in the
11 preceding paragraphs as set forth fully herein.

12 101. Plaintiffs allege that the enforcement of Clark County Code 6.56.030 (doing
13 business without a license) and the applicable business license requirements of Clark County
14 Code Title 6 are unconstitutional as applied to them in violation of their rights to due process of
15 law under article 1, section 8 of the Nevada Constitution. Plaintiffs make this claim against
16 Clark County, David Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

17 102. Plaintiffs allege that the enforcement of Clark County Code 12.32.020
18 (vagrancy) is unconstitutional as applied to them in violation of Article 1, Section 8 of the
19 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
20 Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge # 9316).

21 103. Plaintiffs allege that the enforcement of Clark County Code 12.32.020(d)
22 (begging/soliciting alms) is facially unconstitutional in violation of Article 1, Section 8 of the
23 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and
24 Sheriff Gillespie.
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1 104. Plaintiffs allege that the enforcement of Clark County Code 16.11.020
2 (obstructing a public sidewalk) is unconstitutional as applied to them in violation of Article 1,
3 Section 8 of the Nevada Constitution. Plaintiffs make this claim against Clark County, David
4 Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge #
5 9316).
6

7 105. Plaintiffs allege that the enforcement of Clark County Code 16.11.070 (storing
8 materials on a public sidewalk) is unconstitutional both facially and as applied to Plaintiffs in
9 violation of Article 1, Section 8 of the Nevada Constitution. Plaintiffs make this claim against
10 Clark County, David Roger, Metro, and Sheriff Gillespie.
11

12 106. Plaintiffs allege that the enforcement of Clark County Code 12.33.010
13 (disorderly conduct) is facially unconstitutional in violation of Article 1, Section 8 of the
14 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and
15 Sheriff Gillespie.
16

17 107. Plaintiffs allege that the enforcement of Clark County Code 11.04.020 (obscene
18 materials) is unconstitutional as applied to them in violation of Article 1, Section 8 of the
19 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
20 Sheriff Gillespie, and Officer Hanigan (Badge # 3518).
21

22 108. Plaintiffs allege that Nevada Revised Statute 202.450(3) (public nuisance) is
23 unconstitutional both facially and as applied to them in violation of Article 1, Section 8 of the
24 Nevada Constitution. Plaintiffs make this claim against Catherine Cortez-Masto, David Roger,
25 Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).
26

27 109. Each of the Plaintiffs has been injured, or reasonably fears imminent injury, by
28 these constitutional violations, and the Plaintiffs are entitled to relief.

XI. SEVENTH CAUSE OF ACTION
Violation of NRS 207.030(d)

110. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as set forth fully herein.

111. Clark County Code 12.32.020(d) (begging/soliciting alms) is unlawful under Nevada law because it violates Nevada Revised Statute 207.030(4). Nevada Revised Statute 207.030(4) permits Clark County to place constitutional time, place and manner restrictions on begging or soliciting alms; however, Clark County had exceeded its authority by attempting to enforce a complete ban on such activity by applying 12.32.020(d) to prohibit all forms of street performing.

XII. EIGHT CAUSE OF ACTION
Violation of the Fourteenth Amendment to the
United States Constitution under 42 U.S.C. § 1983
(Equal Protection)

112. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as set forth fully herein.

113. Plaintiffs allege that the enforcement of Clark County Code 6.56.030 (doing business without a license) and the applicable business license requirements of Clark County Code Title 6 are unconstitutional as applied to them in violation of their Fourteenth Amendment rights to equal protection under the law. Plaintiffs make this claim against Clark County, David Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

114. Plaintiffs allege that the enforcement of Clark County Code 12.32.020 (vagrancy) is unconstitutional as applied to them in violation of their Fourteenth Amendment rights to equal protection under the law. Plaintiffs make this claim against Clark County, David

1 Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge #
2 9316).

3 115. Plaintiffs allege that the enforcement of Clark County Code 12.32.020(d)
4 (begging/soliciting alms) is facially unconstitutional in violation of the Fourteenth Amendment
5 to the U.S. Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
6 and Sheriff Gillespie.
7

8 116. Plaintiffs allege that the enforcement of Clark County Code 16.11.020
9 (obstructing a public sidewalk) is unconstitutional as applied to them in violation of their
10 Fourteenth Amendment rights to equal protection under the law. Plaintiffs make this claim
11 against Clark County, David Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge #
12 7520) and Contreras (Badge # 9316).
13

14 117. Plaintiffs allege that the enforcement of Clark County Code 16.11.070 (storing
15 materials on a public sidewalk) is unconstitutional both facially and as applied to Plaintiffs in
16 violation of the Fourteenth Amendment. Plaintiffs make this claim against Clark County, David
17 Roger, Metro, and Sheriff Gillespie.
18

19 118. Plaintiffs allege that the enforcement of Clark County Code 12.33.010
20 (disorderly conduct) is facially unconstitutional in violation of the Fourteenth Amendment to
21 the U.S. Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
22 and Sheriff Gillespie.
23

24 119. Plaintiffs allege that the enforcement of Clark County Code 11.04.020 (obscene
25 materials) is unconstitutional as applied to them in violation of their Fourteenth Amendment
26 rights to equal protection under the law. Plaintiffs make this claim against Clark County, David
27 Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).
28

1 120. Plaintiffs allege that Nevada Revised Statute 202.450(3) (public nuisance) is
2 unconstitutional both facially and as applied to them in violation of their Fourteenth
3 Amendment rights to equal protection under the law. Plaintiffs make this claim against
4 Catherine Cortez-Masto, David Roger, Metro, Sheriff Gillespie, and Officer Hanigan (Badge #
5 3518).
6

7 121. Metro's policy and practice of harassing street performers, including Plaintiffs,
8 violates Plaintiffs' rights to Equal Protection of the law because other speakers, such as hand-
9 billers and protesters, are allowed to exercise their free speech rights on the Strip without fear of
10 harassment, citation or arrest, and because Metro treats street performers differently based on
11 whether or not they accept tips.
12

13 122. Each of the Plaintiffs has been injured, or reasonably fears imminent injury, by
14 these constitutional violations, and the Plaintiffs are entitled to relief.
15

16 **XIII. NINTH CAUSE OF ACTION**
17 **Violation of Nevada**
18 **Const., Art. 1, § 1**
19 **(Equal Protection)**

20 123. Plaintiffs incorporate by reference each and every allegation contained in the
21 preceding paragraphs as set forth fully herein.

22 124. Plaintiffs allege that the enforcement of Clark County Code 6.56.030 (doing
23 business without a license) and the applicable business license requirements of Clark County
24 Code Title 6 are unconstitutional as applied to them in violation of their rights to due process of
25 law under Article 1, Section 8 of the Nevada Constitution. Plaintiffs make this claim against
26 Clark County, David Roger, Metro, Sheriff Gillespie, and Officers Hanigan (Badge # 3518).
27
28

1 125. Plaintiffs allege that the enforcement of Clark County Code 12.32.020
2 (vagrancy) is unconstitutional as applied to them in violation of Article 1, Section 8 of the
3 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
4 Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge # 9316).
5

6 126. Plaintiffs allege that the enforcement of Clark County Code 12.32.020(d)
7 (begging/soliciting alms) is facially unconstitutional in violation of Article 1, Section 8 of the
8 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and
9 Sheriff Gillespie.
10

11 127. Plaintiffs allege that the enforcement of Clark County Code 16.11.020
12 (obstructing a public sidewalk) is unconstitutional as applied to them in violation of Article 1,
13 Section 8 of the Nevada Constitution. Plaintiffs make this claim against Clark County, David
14 Roger, Metro, Sheriff Gillespie, and Officers Goris (Badge # 7520) and Contreras (Badge #
15 9316)..
16

17 128. Plaintiffs allege that the enforcement of Clark County Code 16.11.070 (storing
18 materials on a public sidewalk) is unconstitutional both facially and as applied to Plaintiffs in
19 violation of Article 1, Section 8 of the Nevada Constitution. Plaintiffs make this claim against
20 Clark County, David Roger, Metro, and Sheriff Gillespie.
21

22 129. Plaintiffs allege that the enforcement of Clark County Code 12.33.010
23 (disorderly conduct) is facially unconstitutional in violation Article 1, Section 8 of the Nevada
24 Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro, and Sheriff
25 Gillespie.
26

27 130. Plaintiffs allege that the enforcement of Clark County Code 11.04.020 (obscene
28 materials) is unconstitutional as applied to them in violation of Article 1, Section 8 of the

1 Nevada Constitution. Plaintiffs make this claim against Clark County, David Roger, Metro,
 2 Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

3 131. Plaintiffs that Nevada Revised Statute 202.450(3) (public nuisance) is
 4 unconstitutional both facially and as applied to them in violation of Article 1, Section 8 of the
 5 Nevada Constitution. Plaintiffs make this claim against Catherine Cortez-Masto, David Roger,
 6 Metro, Sheriff Gillespie, and Officer Hanigan (Badge # 3518).

7 132. Metro's policy and practice of harassing street performers, including Plaintiffs,
 8 violates Plaintiffs' rights to Equal Protection of the law because other speakers, such as hand-
 9 billers and protesters, are allowed to exercise their free speech rights on the Strip without fear of
 10 harassment, citation or arrest, and because Metro treats street performers differently based on
 11 whether or not they accept tips.

12 133. Each of the Plaintiffs has been injured, or reasonably fears imminent injury, by
 13 these constitutional violations, and the Plaintiffs are entitled to relief.

14 **XIV. PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiffs seek judgment as follows:

- 16 a. A declaration that, as applied to Plaintiffs, Clark County Code 6.56.030
 17 (doing business without a license) and the relevant business license
 18 requirements of Clark County Code Title 6; Clark County Code 12.32.020
 19 (vagrancy); Clark County Code 16.11.020 (obstructing a public sidewalk);
 20 Clark County Code 16.11.070 (storing materials on a public sidewalk); Clark
 21 County Code 11.04.020 (obscene materials); and NRS 202.450(3) (public
 22 nuisance) violate the First and Fourteenth Amendments of the U.S.
 23 Constitution and Article 1, Sections 1, 8, and 9 of the Nevada Constitution;
 24
 25
 26
 27
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- b. A declaration that Clark County Code 12.32.020(d) (begging/soliciting alms); Clark County Code 16.11.070 (storing materials on a public sidewalk); Clark County Code 12.33.010 (disorderly conduct); and Nevada Revised Statute 202.450(3) (public nuisance) facially violate the First and Fourteenth Amendments of the U.S. Constitution and Article 1, Sections 1, 8, and 9 of the Nevada Constitution;
- c. A declaration that Clark County Code 12.32.020(d) (begging/soliciting alms) is unlawful under NRS 207.030(4);
- d. A preliminary and permanent injunction enjoining each defendant from enforcing the above challenged laws against street performers;
- e. A preliminary and permanent injunction enjoining each defendant from interfering with Plaintiffs' right to lawfully engage in constitutionally-protected expression and activity within the unincorporated part of Clark County, specifically on the sidewalks of the Las Vegas Strip;
- f. Damages in an amount to be determined at trial;
- g. An award of attorney's fees and expenses under 42 U.S.C. § 1988; and
- h. Any further relief the Court deems appropriate.

XV. DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all causes of action.

Respectfully submitted, this 9th day of July, 2009,

By: /s/ Judy C. Cox
 Judy C. Cox
 Nevada Bar No. 11093
ACLU OF NEVADA
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